

CHARLES W. RUCKMAN

NOVEMBER 4 (legislative day, OCTOBER 25), 1943.—Ordered to be printed

Mr. TUNNELL, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1498]

The Committee on Claims, to whom was referred the bill (H. R. 1498) for the relief of Charles W. Ruckman, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

The facts will be found fully set forth in House Report No. 499, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report, and your committee concur in the recommendations of the House.

[H. Rept. No. 499, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1498) for the relief of Charles W. Ruckman, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 4, after the words "out of", strike out the words "any money in the Treasury not otherwise appropriated" and insert in lieu thereof the words "the civil service retirement and disability fund".

Page 1, line 6, after the words "the sum of", strike out the figures "\$3,195.45" and insert in lieu thereof the language: "\$3,150.42, in full settlement of all claims against the United States, said sum".

At end of bill strike out period and add ": *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the proposed legislation is to pay to Charles W. Ruckman the sum of \$3,195.45, in full settlement of all claims against the United States, said sum representing the total annuity payments, received by him under the Civil Service Retirement Act, in good faith while serving as postmaster at Concho, Okla., and which he was required to refund.

STATEMENT OF FACTS

On April 1, 1901, Charles W. Ruckman entered the service of the Government (Interior Department, Indian Service), as a result of a competitive examination, and remained in such service continuously until June 30, 1933, when he was retired under the provisions of the act of June 16, 1933. Thereafter he received a retirement annuity of \$1,200 per annum until the end of August 1939.

The post office at Concho, Okla., became vacant, and at the solicitation of patrons Ruckman was induced to accept designation as acting postmaster on January 1, 1937. He was requested to submit a personal record to the Post Office Department, on a form supplied him by the Department, and on such form he advised the Department that he was a retired Government employee receiving annuity at the rate of \$1,200 per annum. On February 7, 1937, he was commissioned as postmaster at Concho, and served until January 31, 1940. At the end of August 1939 he was notified by the Civil Service Commission that he had been receiving annuity while serving as postmaster, contrary to existing law, and that the annuity would be discontinued and it would be necessary for him to refund the amount of \$3,150.42 to the Civil Service Commission. On February 6, 1940, he made remittance to effect such refund.

It is obvious that Ruckman was acting in good faith, without any knowledge that such action contravened existing law. As stated in the report of the Civil Service Commission—

"The fact that the compensation of the post-office position was so much less than the amount of the annuity would seem to indicate that Mr. Ruckman accepted to post-office position without knowledge of the law with respect to the discontinuance of the annuity, since, if he had known the law, it is not at all probable that he would have run the risk of losing the much higher retirement pay * * *."

In its report the Post Office Department states that Ruckman's application contained the statement that he was receiving annuity, and that the Department inadvertently approved his appointment contrary to the provisions of the Retirement Act.

Ruckman appears to have received approximately \$40 per month for his services as postmaster, and it appears that he accepted the position when patrons of the post office insisted upon him to do so. Ruckman was the only applicant for the position, and apparently no one else wanted it because of the small monthly salary.

Ruckman rendered satisfactory services during the period involved, and the Post Office Department admits that "his appointment was made through an administrative oversight."

Both the Post Office Department and the United States Civil Service Commission have submitted favorable reports and recommend passage of the bill.

Your committee concur with them that Ruckman is entitled to the relief asked for in the measure, and that to deny such relief would not only work upon him an extreme hardship but would be grossly unjust.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto are the reports of the Post Office Department and the United States Civil Service Commission, together with other pertinent evidence, all of which is made a part of this report.

POST OFFICE DEPARTMENT,
Washington, D. C., April 2, 1943.

Hon. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives.*

MY DEAR MR. McGEHEE: Your letter of January 27, 1943, requested a report upon H. R. 1493, a bill for the relief of Charles W. Ruckman.

Mr. Ruckman took possession of the fourth-class post office of Concho, Okla., on January 1, 1937. He was officially appointed acting postmaster on January 15, 1937, and was appointed postmaster on March 24. His commission was issued on April 5, 1937. His appointment as postmaster was made from a report submitted by the inspector in charge at Kansas City, Mo., which contained his name as the only applicant. In his application dated January 6, 1937, which accompanied the report of the inspector in charge, Mr. Ruckman stated he was a retired Federal employee and was receiving \$96.50 per month annuity. In accordance with the usual practice of the Department a copy of the report of the inspector in charge and the application paper of the appointee was sent to the Civil Service Commission. The appointment of Mr. Ruckman was inadvertently

approved contrary to the provisions of the Retirement Act as amended on June 16, 1933.

During the period involved Mr. Ruckman received in retirement annuity payments a total of \$3,195.45, while the total of his compensation as postmaster from January 1, 1937 to January 31, 1940, was \$1,291.07.

In view of the fact that Mr. Ruckman actually performed service as postmaster during the period involved for which he received much less than he was entitled to by way of annuity payments; that he was the only applicant for the position of postmaster at the time of his appointment; that he stated in his application that he was a retired Federal employee with an annuity of \$96.50 per month; and that his appointment was made through an administrative oversight, it is our view that this bill should receive favorable consideration.

It has been ascertained from the Bureau of the Budget that this report is in accord with the program of the President.

Very truly yours,

FRANK C. WALKER,
Postmaster General.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., February 18, 1943.

HON. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives.*

DEAR MR. McGEHEE: Further reference is made to your communication of January 27, 1943, transmitting copy of H. R. 1498, a bill for the relief of Charles W. Ruckman, and requesting the comments of the Commission thereon.

The records of this Commission show that Mr. Ruckman was involuntarily separated from his position in the Indian Field Service, Interior Department, effective June 30, 1933, after having served the Government for over 32 years. Based upon such separation and service, he was granted annuity from July 1, 1933, at the rate of \$1,158 per annum under section 8 (a) of the act of June 16, 1933, with increase to \$1,200 per annum, effective February 10, 1937.

As regards the rights of Mr. Ruckman upon reemployment in the Government service, the said section 8 (a) provided as follows:

"If and when any such annuitant shall be reemployed in the service of the District of Columbia or the United States (including any corporation the majority of the stock of which is owned by the United States), the right to the annuity provided by this section shall cease and the subsequent annuity rights of such person shall be determined in accordance with the applicable provisions of retirement law existing at the time of the subsequent separation of such person from the service."

In August of 1939, the Commission's Retirement Division received information that Mr. Ruckman had been reemployed as acting postmaster, Concho, Okla., on January 1, 1937, and advanced to postmaster, effective March 24, 1937. By the specific terms of the law quoted, such reemployment had the effect of automatically terminating the annuity with the result that annuity paid after January 1, 1937, was illegal. The employee was consequently requested to return to the retirement fund the annuity illegally paid covering the period January 1, 1937, to August 31, 1939, totaling \$3,195.45, which he did.

However, information was subsequently received that Mr. Ruckman's appointment as acting postmaster was not actually effected until January 15, 1937. In the light of such fact, he had refunded too large an amount, and the annuity to which he was legally entitled covering the period January 1 to 14, 1937 (\$45.03) was returned to him by check dated April 17, 1940. The actual amount overpaid and returned to the retirement fund, therefore, totaled only \$3,150.42, and the figure in line 6 of H. R. 1498 must be corrected to show this amount.

It is apparent that Mr. Ruckman would not have served in the postmaster position or even considered appointment thereto had he been aware of the effect of such action. This is particularly true because his salary as postmaster averaged only a little more than \$400 a year, which is materially less than the retirement benefit otherwise payable. The refund of \$3,150.42 covering a period when Mr. Ruckman earned considerably less in salary worked an extreme hardship and created a situation which, it is believed, was never contemplated by the retirement law. There is no indication that he accepted the payments in bad faith, he having disclosed at the time of his appointment the fact of his being in receipt of annuity.

While situations such as this are somewhat infrequent, the instant case is not unique in this regard. It is believed that legislation should be enacted permitting

the Commission to waive such annuity payments when, in the Commission's judgment, the annuitant is without fault and the recovery would be contrary to equity and good conscience. Bills H. R. 1475 and S. 461 to effectuate this purpose have been introduced in the present session of Congress. However, as recovery has already been made in this case, the waiver of such recovery in a general law would not be a complete remedy as regards Mr. Ruckman.

Reference may be had to the case of Earl Carbauh who, while receiving annuity of \$96.50 per month, served under the Government for a period of almost 7 years at a monthly salary of \$19.50; in this case, the Seventy-seventh Congress saw the need for remedial legislation, and by Private Law 525 (approved December 1, 1942) relieved this annuitant from repayment of the annuity otherwise illegally paid. Under this precedent, and in view of the merits of Mr. Ruckman's case, the Commission believes that favorable consideration should be given to H. R. 1498. However, the amount (which should be changed to \$3,150.42 as hereinbefore noted) having been deposited in the civil-service retirement and disability fund, it is suggested that the Civil Service Commission be authorized to make the payment out of the said fund. With these changes, approval of the bill is recommended.

In connection with this bill the Bureau of the Budget advises as follows:

"The fact that the compensation of the post-office position was so much less than the amount of the annuity would seem to indicate that Mr. Ruckman accepted the post-office position without knowledge of the law with respect to the discontinuance of the annuity, since, if he had known of the law, it is not at all probable that he would have run the risk of losing the much higher retirement pay. You are accordingly advised that there would be no objection to the enactment of legislation which would authorize a refund to him of the amount of the annuity which he has returned to the Government, which amount, as indicated in your proposed report, is \$3,150.42."

Very sincerely yours,

HARRY B. MITCHELL,
President.

AFFIDAVIT

STATE OF OKLAHOMA,
Canadian County, ss:

On this 15th day of April 1943, personally appeared Charles W. Ruckman, of Concho, Okla., who being first duly sworn, deposes and says:

On April 1, 1901, I entered the service of the Government (Interior Department, Indian Service), as a result of a competitive examination; that I remained in such service continuously to June 30, 1933, at which time I was retired under the provisions of the act of June 16, 1933; that such retirement annuity was at the rate of \$1,200 per annum; that I continued to receive such retirement pay until the end of August 1939.

I further swear that at the solicitation of various patrons of the post office at Concho, Okla., I was designated as acting postmaster on January 1, 1937; that at a later date I was requested by the Post Office Department at Washington to submit a personal record, for which a printed form was supplied me; that on this form I advised the Post Office Department my exact status, explaining that I was a retired Government employee receiving annuity at the rate of \$1,200 per annum; that on February 7, 1937, I was commissioned as postmaster at Concho, Okla., and that having no knowledge nor information of any law, nor act of Congress which might be violated by my action in accepting such a commission, did act as postmaster until January 31, 1940; that at the end of August 1939 I was notified by the Civil Service Commission that I had been receiving annuity while serving as postmaster; that the annuity would be discontinued, and that it would be necessary for me to refund the amount of \$3,195.45 to the Civil Service Commission; that on February 6, 1940, I made the remittance as directed.

I further swear that my action in the matter of serving under the commission as postmaster was in perfect good faith and with no thought that such action might be in contravention with any law, since the Post Office Department was given information as to my exact status as to retirement in the record furnished by me.

CHARLES W. RUCKMAN.

Subscribed and sworn to before me this 15th day of April 1943.

[SEAL]

J. M. BURGE, *Notary Public.*

Commission expires March 3, 1947.

